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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,713	02/07/2002	Adrian L. Faasse JR.	COR21 P-302	3238

7590 10/22/2003  
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EXAMINER

LEWIS, KIM M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,713

Applicant(s)

FAASSE, ADRIAN L.

Examiner

Kim M. Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2002 and 15 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 10-24 and 36-40 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-33 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 34 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Detailed Action*.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-9 and 25-35, drawn to a medical adhesive dressing, classified in class 602, subclass 57.
  - II. Claims 10-24 and 36-40, drawn to a method of making a medical adhesive dressing, classified in class 428, subclass 40.1 and 41.8.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of making. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to make other and materially different products such as adhesive tile for flooring.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the search required for Group I is not required for Group II, therefore, restriction for examination purposes as indicated is proper.
4. Through telephonic communication with James Mitchell on 10/8/03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9 and 25-35. Affirmation of this election must be made by applicant in replying to this Office

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action. Claims 10-24 and 26-40 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Oath/Declaration***

5. The oath or declaration filed 3/29/02 has been made of record in the application file wrapper.

***Information Disclosure Statement***

6. The information disclosure statement filed 4/11/02 has been received and made of record in the application file wrapper. Note the acknowledged form PTO-1440 enclosed herewith.

***Drawings***

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "20". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

8. The disclosure is objected to because of the following informalities: On page 4, line 11, the applicant defines reference character "21" as a "handle portion" then in line 14, the applicant refers to reference character "21" as the "handling frame". The applicant also refers to reference character "31" as a "handle" on page 4, line 19, then in line 20 refers to "31" as a "handling member". The applicant is advised to remain consistent when defining and then when referring to the reference characters.

Appropriate correction is required.

9. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claim 6, the applicant recites "a pair of spaced legs"; there is insufficient written antecedent basis for this limitation in the claim. The applicant is advised to add this language to the specification in order to prevent ambiguity of the claim language.

***Claim Objections***

10. While the metes and bounds of the claims are definite, the following informalities are deserving of correction:

In Claim 1, line 4, "the adhesive coated surface" lacks proper antecedent basis.

In Claim 6, "said polymeric film layer" lacks proper antecedent basis;

In Claim 6, "said u-shaped handle" lacks proper antecedent basis; and

In Claim 8, "said polymeric film layer" lacks proper antecedent basis.

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The applicant should note that this list is *illustrative only* as other informalities exist throughout the claims. The applicant is advised to peruse the claims to identify other informalities. Appropriate correction is required.

11. Applicant is advised that should claim 6 be found allowable, claim 8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,628,724 ("DeBusk et al.").

As regards claim 1, DeBusk et al. anticipate the claimed invention. More specifically, DeBusk et al. disclose a wound dressing and delivery system comprising a polymeric film (layers 20 and 24), a first adhesive (22) coated on a first side of the polymeric film, a handle (tab 26) adhered by adhesive (28) to a second non-adhesive

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side of the polymeric film and a release liner (cover 42) covering the adhesive coated surface and extending beyond at least a first edge of the polymeric film.

The applicant should note that the first adhesive on the first side of the polymeric film adheres more aggressively to skin than the pressure sensitive adhesive adheres to the polymeric film in that the handle can be removed from the polymeric film once the polymeric film is adhered to the skin of a patient (Figs. 5-7).

As regards claim 2, col. 3, lines 11-18 disclose the use of polyurethane film.

As regards claim 3, col. 5, line 3, disclose the use of a silicone coated release liner.

14. Claims 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,520,629 ("Heinecke et al.").

Regarding claim 34, as can be seen in Fig. 3, Heinecke et al. disclose a polymeric film backing (32) having a generally u-shaped handle (44) attached thereto to facilitate handling thereof, the handle includes spaced legs adhered to the along opposite edges thereof, the handle includes a base portion joining the legs and being adhered along a third edge of said polymeric film layer (Fig. 4). The applicant should note the u-shaped handle is adhered to the backing via adhesive strips (46).

As regards claim 35, note the handling tab, which is integral with the base in Fig. 4.

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***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBusk et al. in view of U.S. Patent No. 4,753,232 ("Ward").

As regards claim 4, DeBusk et al. fail to teach the adhesive is placed on the entire undersurface of the handle (tab 26). However, Ward discloses an adhesive wound dressing and various delivery systems therefor. The delivery systems of Ward include non-adhesive handles (Fig. 10), handles having adhesive over the entire undersurface (Fig. 2) and handles partially coated with adhesive (Fig. 5), depending upon the delivery method.

In view of Ward, it would have been obvious to one having ordinary skill in the art at the time the invention was made provide the handle (tab 26) of DeBusk et al. with adhesive on the entire undersurface thereof depending upon the delivery method.



17. Claims 6 -9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBusk et al. in view of Heinecke et al.

As regards claims 6, DeBusk et al. fail to disclose a u-shaped handle. However, Heinecke et al. disclose an adhesive dressing and a delivery system therefor, wherein the delivery system comprises a u-shaped handle (44), see Fig. 3 as an alternate means for delivering the adhesive dressing.

In view of Heinecke et al., it would have been obvious to one having ordinary skill in the art to modify the shape of the handle of DeBusk et al. to include a u-shaped handle as an alternate means for delivering the adhesive dressing.

As regards claim 7 and 9, note the handling tab, which is integral with the base in Fig. 4.

#### ***Allowable Subject Matter***

18. Claims 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. Claims 25-34 are allowed.

20. The following is a statement of reasons for the indication of allowable subject matter:

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The prior art fails to teach a dressing having a having handle that has an undersurface entirely coated with pressure sensitive adhesive, wherein the pressure sensitive adhesive does not adhere to the liner and does not adhere to skin.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays and Tuesdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703.308.1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.3590 for regular communications and 703.305.3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.



**Kim M. Lewis**  
**Primary Examiner**  
**Art Unit 3761**

kml  
October 20, 2003